

Remarks**Request for Interview**

Applicants respectfully request an interview to discuss the claims in view of the applied references. The Examiner is respectfully requested to contact the undersigned at 503-469-4685 should the Examiner pick up this amendment for consideration prior to the scheduling of such an interview.

Claim Status:

Claims 1-22 are pending in the application. Some of the claims have been amended herein without prejudice.

For example, claim 1 has been amended to direct its scope to an alternative implementation. First and second sources of the first and second fingerprint data are now called out, and the phrase “based at least in part on a frequency occurrence of the subset” has been deleted.

Claims 2 and 3 have been amended to recite the deleted claim 1 phrase.

Claim 5 has been amended in a stylistic manner.

Claim 7 has been amended to direct its scope to an alternative implementation. Claim 7 now recites first and (remotely located) second devices

Claim 9 has been amended in an editorial manner (e.g., the phrase “the steps of” has been removed).

Claims 11 and 16 have been amended in independent form as suggested by the examiner.

Claims 12-14 have been amended in independent form and generally recite the features of their former base claims. These claims include some editorial changes as well.

Some of the remaining claims have been amended in a stylistic or editorial manner only.

Claim 20 has been amended in an editorial manner (e.g., removing “the steps of”) and to broaden its scope (e.g., changing “unique” to “plural-bit”).

Claim 22 is newly presented and is believed to be supported by the application as filed.

The Examiner is invited to review the precise changes in the marked up claims above.

Allowed claims:

We appreciate the indication that claims 11 and 16-18 recite patentable combinations. These claims stand ready for allowance. The remaining claims are also believed to be in condition for allowance. Favorable consideration is requested.

Art-based Rejection:

Claims 1-10, 12-15 and 19-21 stand rejected as being unpatentable over Ellis (U.S. Patent No. 5,436,653) in view of Rump (U.S. Patent No. 6,735,311). Applicant respectfully traverses this rejection.

Claim 1

Claim 1 recites aggregating first fingerprint data and second fingerprint data. The first fingerprint data originates at a first source and the second fingerprint data originates at second source. The first source and the second source are remotely located.

The relied upon passage in Ellis (i.e., Col. 5, lines 57-67) fails to discuss such features, in combination with the remaining portions of claim 1.

Rump is not understood to remedy the deficiencies of Ellis.

We respectfully request that claim 1 be allowed.

Claim 7

Claim 1 recites aggregating a first set of audio fingerprints provided by a first device with a second set of audio fingerprints provided by a remotely located second device.

The relied upon passage in Ellis (i.e., Col. 23, lines 54-60) fails to discuss such features, in combination with the remaining portions of claim 7.

Rump is not understood to remedy the deficiencies of Ellis.

We respectfully request that claim 7 be allowed.

Claim 9

The Office Action fails to address claim 9. We respectfully request that claim 9 be allowed.

Claim 12

Claim 12 recites both a reference receiver and a user device. The user device generates second fingerprint data, while first fingerprint data is generated from a signal received by the reference receiver.

While the Office Action cites Col. 5, lines 59-66 of Ellis, it does not contemplate both a reference receiver and user device in the combination recited in claim 12.

Rump is not understood to remedy the deficiencies of Ellis.

We respectfully request that claim 12 be allowed.

Claim 13

Claim 13 recites both a reference receiver and a cell phone. The cell phone generates second fingerprint data, while first fingerprint data is generated from a signal received by the reference receiver.

While we do not contest that cell phone were well known in the art, we do contest that it was well know to use a cell phone in the manner contemplated by claim 13.

Moreover, the Office Action seems to disregard both a reference receiver and cell phone in the combination recited in claim 13.

Rump is not understood to remedy the deficiencies of Ellis.

We respectfully request that claim 13 be allowed.

Claim 14

While similar to claim 12, claim 14 further recites determining a geographical location of a user device.

This feature was not even discussed in the Office Action.

Ellis and Rump are not understood to teach the combination recited in claim 14.

We respectfully request that claim 14 be allowed.

Claim 20

We agree with the Office Action that Ellis and Rump fail to discuss digital watermarking. We also agree that watermarking was known at the time of filing this application to provide copyright information and to protect ownership.

We part ways with the Office, however, in concluding that the use of watermarking to facilitate fingerprint data comparison was well known.

There is no suggestion or motivation in Ellis and Rump to interrogate a database with a watermark identifier to identify a set of fingerprints associated with a signal in which the watermark is embedded in.

Claim 20 recites a novel use of digital watermarking. If this rejection is maintained, the Office is invited to clarify its position so that we may even better address its position on Appeal.

We respectfully submit that claim 20 should be allowed.

New Claim 22

Ellis and Rump are not understood to teach or suggest the combination recited in new claim 22. For example, these references fail to teach or suggest: cumulating a first set of representations of audio or video with a second set of representations of audio or video, wherein the representations comprise reduced-bit representations of audio or video, and wherein the first set of representations are provided from a first device and the second set of representations are provided from a second device; determining a plurality of audio and video content relating to the cumulated sets; and selecting a set of audio or video content from the plurality of audio or video content based on a number of times a selected set of audio and video content corresponds with the cumulated sets.

We respectfully submit that new claim 22 should be allowed.

Information Disclosure Statement

An Information Disclosure Statement (IDS) is filed concurrently herewith. We respectfully request consideration of the information identified therein.

Conclusion

The application stands ready for allowance. (We need not belabor the many other deficiencies of the art at this time.) We look forward to our upcoming interview. In the meantime, the Examiner is invited to contact the undersigned with any questions.

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Respectfully submitted,

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